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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/425,102      | 10/22/1999  | WILFRED G. RUSSELL   | 3382-53553          | 9072             |

7590

08/26/2004

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EXAMINER

LAO, SUE X

ART UNIT PAPER NUMBER

2126

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/425,102

Applicant(s)

RUSSELL ET AL.

Examiner

S. Lao

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28, 33-38, 41-53 and 56-61 is/are rejected.
- 7) ☒ Claim(s) 29-32, 39, 40, 54 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date (6) ✓
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-61 are presented for examination. This is in response to applicant's response filed 4/26/2004. Applicant has elected Group I, consisting of claims 1-61 and canceled claims 62-68.

3. The non-statutory double patenting rejection, whether of the obviousness-type or non-obviousness-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78(d).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-28, 33-38, 41-53, 56-57, 60, 61 are rejected under the judicially created doctrine of obviousness - type double patenting as being unpatentable over

claims 1-21 of U.S. Patent No. 5,890,161 to Helland et al in view of CORBA (AORBA 2.0, pages 4-12 to 4-17). In particular, as to claim 1, U.S. Patent No. 5,890,161 teaches in a computer having object-execution system code, a method of managing execution of software components in an object execution environment, the method comprising: supporting an object execution environment from a system-provided run-time executive (run-time service operative); and responsive to a request from an immediate client to the run-time executive to create a software component instance in the object execution environment (client to request creation of specified application component), creating a component context object (component context object) having stored therein a set of properties intrinsic to the requested software component instance and relating to managing execution of the requested software component instance within the object execution environment by system-provided code; maintaining by the run-time executive an implicit association of the component context object to the requested software component instance (set the component context object so that ... has the transaction). See claim 9. Patent No. 5,890,161 does not teach supplying to the immediate client a reference to the requested software component instance. CORBA teaches context management, including supplying to the immediate client a reference to the requested software component instance (return a reference by calling `get_default_context()`, section 4.6.1). Therefore, it would have been obvious to include the step of supplying into U.S. Patent No. 5,890,161. One of ordinary skill in the art would have been motivated to do so because this would have enabled the server to query context object for context properties (CORBA, page 4-12). As to claim 41, note discussion of claim 1 and U.S. Patent No. 5,890,161 as modified teaches the implicit association is maintained throughout a lifetime of the requested software component instance (CORBA, `delete()`, section 4.6.7). Note claim 1 for a motivation to combine. As to claims 2-4, U.S. Patent No. 5,890,161 as modified teaches maintaining the component context object in existence and continuing the implicit association of the component context object to the requested software component instance during a lifetime of the requested software component instance (CORBA, `delete()`, section 4.6.7), maintaining the component context object in existence and continuing the implicit association of the

component context object to the requested software component instance until a final release of the requested software component instance (claims 13, 14) (CORBA, delete(), section 4.6.7), and the properties are set at creation of the component context object and maintained immutable for the lifetime of the requested software component instance (CORBA, set\_values(), page 4-14). As to claims 5-9, U.S. Patent No. 5,890,161 as modified teaches the software component instance is one of a chain of software components whose creation was initiated by a base client that runs outside the object execution environment, and the set of properties comprises a client identifier indicative of the base client (CORBA, section 4.5), the software component instance is one of a set of ancestor/descendent-related software components, each of which being created in turn at request of its respective immediate ancestor software component of the set commencing with an original ancestor software component originally created at request of a base client, and wherein the set of properties comprises a client identifier indicative of the base client (chained, CORBA, page 4-13, 4-14), the client identifier indicates a base client resident outside of the object execution environment (claims 10-12), the set of related software components all are engaged in a collective task for the base client, and wherein the set of properties comprises an activity identifier indicative of the set of related software components (group, CORBA, page 4-14), managing concurrency of execution within software components in the object execution environment that have the activity identifier stored as an intrinsic property in their respective context object (CORBA, section 4.5, page 4-14). As to claims 10-15, note claims 10-12 of U.S. Patent No. 5,890,161 and chaining of context objects and set\_values() and create\_child() in CORBA. As to claims 16-17, note claims 9, 13 and 14 of U.S. Patent No. 5,890,161. As to claims 18-21, note discussion of claims 8-10, and 12. As to claims 23-28, note claims 9, 13 and 14 of U.S. Patent No. 5,890,161. As to claims 33-35, note discussion of claims 13-15. As to claims 36-38, note CORBA context interface, 4-13 to 4-14. As to claims 42-44, note CORBA context interface, sections 4.6.1, 4.6.2, 4.6.3, and 4.5, last 2 paragraphs. As to claims 45-50, note claims 9, 13 and 14 of U.S. Patent No. 5,890,161. As to claims 51-53, note claims 9, 13 and 14 of U.S. Patent No. 5,890,161. As to claims 56-57, 60, note discussion of claims 5, 8, 10. As to

claim 61, U.S. Patent No. 5,890,161 teaches transactionally managing data processing work of the collection of participating software components (run in same/new transaction, claims 18, 19).

Claims 58, 59 are rejected under the judicially created doctrine of obviousness - type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 5,890,161 to Helland et al in view of CORBA (AORBA 2.0, pages 4-12 to 4-17) and Hutchison et al (U S Pat. 6,026,428). As to claims 58-59, Hutchison teaches controlling concurrency of execution in the set of software components (plurality of threads), and limiting concurrent execution in the set of software components to a single logical thread of execution (associate context with the current / executing thread and disassociate / remote the context before switching to a new thread, col. 3, lines 34-54; col. 9, lines 20-59; col. 10, lines 22-43). Therefore, it would have been obvious to include controlling and limiting into U.S. Patent No. 5,890,161. One of ordinary skill in the art would have been motivated to do so because this would have allowed different mechanisms of context management (col. 2, lines 1-3, 28-36).

5. Claims 29-32, 39, 40, 54, 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Lao whose telephone number is (703) 305-9657. A voice mail service is also available at this number. The examiner's supervisor, SPE Meng-Ai An, can be reached on (703) 305 9678. The examiner can normally be reached on Monday - Friday, from 9AM to 5PM. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

Sue Lao 

August 20, 2004

**SUE LAO**  
**PRIMARY EXAMINER**